

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

\$2,000.00 IN U.S. CURRENCY,
\$69,980.00 IN U.S. CURRENCY,
\$2,465.00 IN U.S. CURRENCY, and
\$5,450.00 IN U.S. CURRENCY,
more or less, and all proceeds therefrom,

Defendants.

NO. C04-2205L

CONSENT JUDGEMENT FOR
FORFEITURE OF \$65,000.00

Comes now the United States of America, Plaintiff herein, by its attorney, the United States Attorney for the Western District of Washington and Claimant Cristobal Omar Hernandez, by his attorney Gabriel I. Banfi, and enter into this Consent Judgment for Forfeiture upon the terms and conditions set forth below.

On May 21, 2004 agents of the Drug Enforcement Administration seized a total of \$74,445.00 of the defendant funds from the residence of Claimant Hernandez, during the execution of a search warrant. A quantity of methamphetamine and other controlled substances were also seized. On May 27, 2004, \$5,450.00 of the defendant funds was seized from Claimant Hernandez's truck, which had been impounded since the execution of the search warrant on May 21. A grand total of \$79,895.00 was seized which is referred to herein as the "defendant funds."

1 Plaintiff, United States of America, filed its Verified Complaint for Forfeiture herein
2 on October 27, 2004 against the portion of the funds seized from the Claimant's house. On
3 November 29, 2004, Cristobal Omar Hernandez filed a claim of interest in the funds named
4 for forfeiture in the Complaint. On December 17, 2004, the Court entered its Order staying
5 this case until completion of sentencing of Claimant Hernandez in Criminal Case No. CR04-
6 240P. On February 9, 2005 Claimant Hernandez was sentenced to a term of imprisonment
7 in CR04-240P, and the stay previously entered in the instant case was lifted.

8 On February 14, 2005, Plaintiff, by leave of Court, filed an Amended Complaint
9 which repeated the allegations of the original complaint and also sought forfeiture of the
10 \$5,450.00 in funds seized from Claimant's truck. The Complaint and the Amended
11 Complaint alleged that the defendant funds and all proceeds therefrom were subject to
12 forfeiture to the United States on grounds that they represented money furnished or intended
13 to be furnished in exchange for a controlled substance and is traceable to such an exchange,
14 in violation of Title 21, United States Code, Sections 841(a)(1) and 846, and as such, is
15 subject to seizure and forfeiture pursuant to Title 21, United States Code, Section 881(a)(6).

16 Pursuant to Warrants of Arrest In Rem the United States Marshals Service arrested
17 the defendant funds on October 29, 2004 and on February 22, 2005.

18 On March 1, 2005, Cristobal Omar Hernandez filed claims to the defendant funds,
19 and on March 9, 2005, filed an Answer to the Amended Complaint.

20 Notice of the arrests and the Verified Complaint in the forfeiture action was published
21 in The Daily Journal of Commerce on November 2, 9, and 16, 2004 and on February 23,
22 March 2 and 9, 2005, in order to give all persons, including any unknown claimants, the
23 opportunity to appear and be heard. All interested persons were advised to file their claims
24 pursuant to Supplemental Rule C(6) of the Federal Rules of Civil Procedure with the Clerk
25 of the Court within thirty (30) days after the date of publication

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27 and to serve their answers to the complaint within twenty (20) days after the filing of a claim.

28 No other claims have been made to the defendant funds and no other parties have

1 appeared in this action, except for Claimant Cristobal Omar Hernandez and the time for
2 doing so has expired.

3 On March 15, 2005 the Amended Complaint was served on Carolina Hernandez by
4 the United States Marshals Office. On April 18, 2005, the Clerk of the Court entered an
5 Order of Default against Carolina Hernandez

6 Cristobal Omar Hernandez, hereby agrees to release and forever discharge the United
7 States, its agencies, agents, employees and officers, and any other foreign, state, or local law
8 enforcement agents or officers involved in the investigation relating to this case, from any
9 and all claims, liens, demands, obligations, actions, causes of actions, indemnifications,
10 damages, liabilities, losses, costs and expenses, of any nature whatsoever, known or
11 unknown, past, present or future, ascertained or unascertained, suspected or unsuspected,
12 existing or claimed to exist, which said Claimant, his heirs, successors, or assigns may have
13 had, now have, or may hereafter have, arising out of the seizure, handling, disposition and
14 forfeiture of the defendant funds, the investigation leading to such actions, and the
15 subsequent forfeiture proceedings, including any claims for interest and attorneys's fees.

16 The parties hereto now stipulate and agree to the entry of this Consent Judgment for
17 Forfeiture without further adjudication of any issue of fact or law.

18 Accordingly, IT IS HEREBY ORDERED, ADJUDGED, and DECREED:

19 1. The Court has jurisdiction over this matter, the defendant currency, and the
20 parties pursuant to Title 28, United States Code, Sections 1345, 1355, 1356 and 1395, Title
21 21, United States Code, Sections 841 and 881(a)(6). The Court has venue pursuant to Title
22 28, United States Code, Sections 1355 and 1395.

23 2. Fourteen Thousand, Nine Hundred Eighty Five dollars (\$14,985.00) of the
24 defendant funds shall be paid to Carolina Hernandez, wife of Claimant Cristobal Hernandez,
25 through Claimant's attorney, Gabriel I. Banfi, by the United States Marshals Service.

26 3. The remaining balance of the defendant funds, Sixty Five Thousand dollars,
27 (\$65,000.00) and all proceeds from the defendant currency are hereby condemned and
28 forfeited to the United States of America, and no right, title or interest in said funds shall

1 exist in any other person or entity. The United States Marshals Service shall dispose of said
2 funds and said proceeds in accordance with law.

3 4. This Consent Judgment represents a full settlement and satisfaction of all
4 ownership and possessory claims to the defendant currency and its proceeds and of any
5 causes of action arising out of the seizure of the defendant currency. The parties shall
6 execute further documents to the extent necessary to implement the terms of this Consent
7 Judgment for Forfeiture. Each party is to bear its own costs and attorney's fees.

8 5. The Clerk of the Court is directed to serve a copy of this Consent Judgment for
9 Forfeiture on each party of record and deliver three (3) certified copies to the United States
10 Marshals Service in Seattle, Washington.

11 DATED this 18th day of May, 2005.

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15 Robert S. Lasnik
16 United States District Judge
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CONSENT

We submit this Consent Judgment for Forfeiture to the Court for signature, having agreed to its terms and consented to the entry of this Consent Judgment in full satisfaction of this case and further, we waive any right of appeal.

JOHN MCKAY
United States Attorney

DATED: 05/17/05

s/Peter O. Mueller
PETER O. MUELLER
Assistant United States Attorney
Attorney for Plaintiff

DATED: 05/16/05

s/Gabriel I. Banfi
GABRIEL I. BANFI
Attorney for Claimant

DATED: 05/05/05

s/Cristobal Omar Hernandez
CRISTOBAL OMAR HERNANDEZ
Claimant